

30, 2021. [ECF No. 19]. Hord filed his original answer on September 20, 2021. [ECF No. 54]. Hord filed his motion to amend on November 30, 2021. [ECF No. 132]. Discovery has barely commenced: no depositions have been taken, and only initial written discovery has been exchanged.

2. In the spirit of cooperation, Hord did not oppose Clingman & Hanger's earlier motion for leave to amend its complaint, filed on October 19, 2021. [ECF No. 94].

3. Although, as Hord urged in his reply in support of his motion for judgment on the pleadings and/or summary judgment, he believes his original answer is broad enough to encompass the statute of limitations under 11 U.S.C. § 546, Clingman & Hanger has argued that it is not, so out of an abundance of caution, Hord asked for leave to amend his answer to more specifically reference section 546. [ECF Nos. 131, 132].

4. "The court should freely give leave [to amend] when justice so requires." FED. R. CIV. P. 15(a)(2). Absent the factors set forth by the Supreme Court—undue delay, bad faith or dilatory motive, repeated failure to cure, undue prejudice, or futility—amendment should be permitted. *Foman v. Davis*, 371 U.S. 178, 182 (1962)).

5. Courts regularly grant leave to amend to assert the statute of limitations. *E.g.*, *Affiliated FM Ins. Co. v. Liberty Mechanical Contractors, Inc.*, No. 12 Civ. 5160(KPF), 2013 WL 4526246, at *4-8 (S.D.N.Y. Aug. 27, 2013) (collecting cases).

6. Hangman & Clinger's only basis for opposing amendment is futility. For the reasons stated in Hord's motion for judgment on the pleadings and/or summary judgment and reply in support thereof, section 546 of the Bankruptcy Code applies and states a valid defense to Clingman & Hanger's Bankruptcy Code claims; the defense is not futile.

CONCLUSION & PRAYER

The section 546 statute of limitations defense is not futile. Amendment was sought within the pleadings deadline, and there is no prejudice to Clingman & Hanger. For these reasons, Hord continues to pray that the Court grant him leave to amend his answer.

Respectfully submitted,

HILL & HILL PC

By: /s/ J. Marcus Hill

J. Marcus Hill

Texas Bar No. 09638150

S.D. Tex. Bar No. 4640

1770 St. James Place, Suite 115

Houston, Texas 77056

2116 Church Street

Galveston, Texas 77550

Tel: (713) 688-6318

Fax: (713) 688-2817

marc@hillpclaw.com

ATTORNEYS FOR DEFENDANT
THOMAS E. HORD

CERTIFICATE OF COMPLIANCE

I certify that this reply contains 553 words. The word count was calculated electronically using Microsoft Word.

/s/ J. Marcus Hill

J. Marcus Hill

CERTIFICATE OF SERVICE

I certify that on January 10, 2022, I electronically filed the foregoing document and all exhibits with the United States District Court for the Southern District of Texas using the court's CM/ECF system. I certify that the following parties or their counsel of record are registered as CM/ECF filers and that they will be served by the CM/ECF system:

/s/ J. Marcus Hill

J. Marcus Hill

**Plaintiff - Clingman & Hanger
Management Associates, LLC as
Trustee of the Furie Litigation Trust
Robert M Corn- Lead Attorney**

Attorney at Law

3131 Eastside St.

Suite 440

Houston, TX 77098

713-229-0055

713-229-0057 (fax)

rcom@com-law.com

Bijan Amini

Avery Samet

Amini LLC

asamet@aminillc.com

(212) 497-8239

131 West 35th Street, 12th Floor

New York, New York 10001

Defendant Kay Rieck
William P Haddock

Pendergraft & Simon, LLP
2777 Allen Parkway, Ste 800
Houston, TX 77019
713-528-8555
713-868-1267 (fax)
will@haddock.pro

Defendant - Theodor Van Stephoudt
Barrett H. Reasoner - Lead Attorney
Ayesha Najam

Gibbs & Bruns LLP
1100 Louisiana
Suite 5300
Houston, TX 77002
713-650-8805
713-750-0903 (fax)
breasoner@gibbsbruns.com
anajam@gibbsbruns.com

Defendant - Reed Smith LLP
Collin Joe Cox

Gibson, Dunn & Crutcher LLP
811 Main St
Ste 3000
Houston, TX 77002
346-718-6604
ccox@gibsondunn.com

Bennett Rawicki

Gibson, Dunn & Crutcher LLP
2001 Ross Avenue, Suite 2100
Dallas, Texas 75201-6912

Kevin Rosen- *Motion for pro hac vice*
pending

Shannon Mader - *Motion for pro hac*
vice pending

Gibson, Dunn & Crutcher LLP
333 South Grand Avenue
Los Angeles, California 90071-3197

Defendant - David Hyrick
Barrett H Reasoner - Lead Attorney
Ayesha Najam
Gibbs & Bruns LLP
1100 Louisiana, Suite 5300
Houston, TX 77002
713-650-8805
713-750-0903 (fax)
breasoner@gibbsbruns.com
anajam@gibbsbruns.com

Defendant-Stone Pigman Walther
Wittmann L.L.C.
George M Kryder, III
Matthew W. Moran
Jordan W. Leu
Vinson Elkins LLP
2001 Ross Ave, Suite 3900
Dallas, TX 75201
214-220-7719
214-999-7719 (fax)
gkryder@velaw.com
Patrick W. Mizell
Vinson Elkins LLP
1001 Fannin Street, Suite 2500
Houston, Texas 77002-6760

Defendant - Michael A Nunes
Murray Folger
Folger, Brar, O'Neil & Gray LLP
2 Houston Center
909 Fannin Street, suite 1640
Houston, Texas 77010
713-481-1010

Defendant - David Elder
Kendall Kelly Hayden

Cozen O'Connor

khayden@cozen.com

(214) 462-3072

1717 Main Street, Suite 3100

Dallas, Texas 75201

Julia Gandar Simonet

Cozen O'Connor

1221 McKinney Street, Suite 2900

Houston, Texas 77010

Defendant - Bruce Ganer

Timothy Rothberg

Peckar & Abramson, PC

trothberg@pecklaw.com

(713) 568-1638

3050 Post Oak Blvd., Suite 500

Houston, Texas 77056

Defendant - Sierra Pine Resources
International, Inc.

Timothy Rothberg

Peckar & Abramson, PC

trothberg@pecklaw.com

(713) 568-1638

3050 Post Oak Blvd., Suite 500

Houston, Texas 77056

Defendant - Helena Energy LLC

Leonard H. Simon

William P Haddock

Pendergraft & Simon, LLP

2777 Allen Parkway, Ste 800

Houston, TX 77019

713-528-8555

713-868-1267 (fax)

will@haddock.pro